PART 3 - ENFORCEMENT DQOs

ENF.1   Pre-Remedial Enforcement Action at Superfund Sites

Section 1 - Program Activity Information

1.1   Program Activity: Pre-Remedial Enforcement Action at Superfund Sites

1.2   Program Activity Category: GPRA Annual Performance Goal

1.3   Program Area: Enforcement

1.4   EPA Sponsor:

Data Sponsor	Program Area	Phone Number
Dan Dickson	Enforcement Data	202-564-6041

Section 2 - Problem/Decision Objective

2.1   Problem: One Superfund enforcement program goal is to maximize PRP involvement at Superfund sites, thus promoting Maximizing PRP participation is critical to achieve the greatest possible number of cleanups and to conserve Trust Fund resources. The enforcement program should utilize the "Enforcement First" strategy to leverage Fund resources to maximize total cleanups. The GPRA goal is for EPA to reach a settlement or take an enforcement action by the time of the Remedial Action (RA) start at 90% of non-federal Superfund sites (with RA starts during the fiscal year) that have known viable, liable parties. The objective of this measure is to take an enforcement action or to reach a settlement with PRPs prior to an RA start at a site.

2.2   Stakeholder(s): Headquarters Enforcement staff (OSRE), Regional EPA Staff, Congress and the Public.

2.3   Decision-maker(s): Regional Administrators or their delegatees will determine the status of Remedial Action (RA) Starts in the region. EPA Regional WasteLAN staff are responsible for entering the data into WasteLAN on their behalf.

2.4   Decision: This measure tracks and counts:
- •   The number of PRP-financed RA starts (in the FY) as defined in Appendix B of the Superfund Program Implementation Manual (SPIM);
- •   The number of Fund-financed RA starts (in the FY) with an enforcement action (i.e., Consent Decree (CD), Administrative Order on Consent (AOC), Consent Agreement (CA), Unilateral Administrative Order (UAO) , voluntary cost recovery action, or litigation referral) at the site, prior to the Fund-financed RA start (in the FY). The following dates of these actions are used to determine if the action is prior to the Fund-financed RA start:
    - ▸   the date (Actual Complete) that the AOC, CA or UAO (Action Name = Admin Order on Consent, Consent Agreement, or Unilateral Admin Order) is signed by the Regional Administrator or delegatee. This does not include orders that are for access or information only.
    - ▸   Date (Actual Start) that the CD settlements (Action Name = Consent Decree) is referred by the Regional Administrator or delegatee to either DOJ or HQ.

▸   the date (Actual Complete) that the CD for cost recovery only and resulting from a previous litigation referral is entered by the court. If the actual completion date for the Lodged (SubAction Name = Lodged by DOJ) exists, that date will be used instead of the entered date.

▸   the date (Actual Complete) that the Regional Office or DOJ receives payment from the PRPs in direct response to a demand letter for voluntary cost recovery (Action Name = Admin/Voluntary Cost Recovery).

▸   Date (Actual Start) of the litigation referral (Action Name = Section 106 & 107 Litigation, Litigation (Generic), Section 106 Litigation, or Section 107 Litigation).

- Fund-financed RA starts (in the FY) with PRPs at the site, but no enforcement actions prior to the RA start: These are Fund-financed RA starts as defined in Appendix B of the SPIM with no enforcement actions at the site where the date of these actions as specified in second bullet above are prior to the start date of the RA, but have viable, liable PRPs designated at the site (Parties Associated with Site, Noticed/Enf Act flag is set, and Not PRP Determination Made flag is not set).

The GPRA accomplishment calculates a percentage of RA starts with enforcement actions at non-federal sites with viable, liable PRPs. It considers the enforcement instrument as well as the status of remedial actions at the site. The calculation of accomplishment is the percentage resulting from the division of the numerator by the denominator as follows:

Numerator = The number of PRP-financed RA starts (in the FY) + Fund-financed RA starts (in the FY) with enforcement actions prior to the RA start.

Denominator = The number of PRP-financed RA starts (in the FY) + Fund-financed RA starts (in the FY) with prior enforcement actions at the site + Fund-financed RA starts (in the FY) with viable, liable PRPs, at the site, but no enforcement actions prior to the RA start

Section 3 - Information Needs

Name	Source	System	Table/Column
Site Id	WasteLAN	WasteLAN	site.site_id
Remedial Action	Remedial Action or PRP RA [directed via a Unilateral Administrative Order (UAO), Administrative Order on Consent (AOC), Consent Decree (CD), Interagency Agreement (IAG), RA Contract Modification]	WasteLAN	action.rat_code, action.act_code_id action.act_actl_strt_date where rat_code = 'RA' or 'BF'
RA Start Date	RA contract modification, UAO, CD, IAG, Cooperative Agreement, approval PRP RD	WasteLAN	action.act_actl_strt_date
Lead Code	WasteLAN	WasteLAN	action.ralt_code in ('F', 'S', 'TR', 'RP', 'MR', 'PS', 'SA', 'SS', 'ST')

Name	Source	System	Table/Column
Enforcement Action	Enforcement Instrument: UAO, AOC, CA, CD, Voluntary Cost Recovery, or Litigation/Referral (Section 106 Litigation, Section 107 Litigation, Section 106/107 Litigation or Litigation (Generic)	WasteLAN	action.rat_code, action.act_code_id where rat_code in ('AC', 'CA', 'UA', 'CD', 'AV', 'SV', 'CL', 'SX', or 'LT')
Actual Completion Date	Enforcement Instrument: UAO, AOC, CA, CD, Voluntary Cost Recovery. *If the CD has a subaction of "Lodged by DOJ" and that subaction has an actual completion date, use that date instead.	WasteLAN	action.act_actl_cmpltn_date where act_actl_cmpltn date < the act_actl_cmpltn date for the RA action *for subaction = 'LO',
Actual Start Date	CD or Litigation/Referral (Section 106 Litigation, Section 107 Litigation, Section 106/107 Litigation or Litigation (Generic).	WasteLAN	action.act_actl_start_date
Parties Associated with Site, Noticed/Enf Act flag is set, and the "Not PRP Determination Made" flag is not set.	PRP Search, Litigation Referral or settlement document	WasteLAN	enf_party_information/party_id, epi_party_name, epi_global_noticed_flag, party_type/party_id, rpt_code, enf_party_site_involvement/party_id, epsi_noticed_at_site_flag, epsi_not_prp_determ_flag

Section 4 - Scope/Universe

This measure applies to all sites with remedial action starts.

Section 5 - Data Quality Requirements

5.1   Completeness: Data is supported by the date a contract modification for the RA is signed by the EPA CO, or the IAG is signed by the other Federal Agency, or cooperative agreement is awarded and funds are obligated, or a settlement document is signed. Regions will receive credit in the management of the Superfund program for "start" of a remedial action even though "initiation of physical on-site construction" may not have occurred for purposes of calculating a cost recovery statute of limitations.

5.2   Accuracy: The data recorded in CERCLIS must reflect the correct, true, or reported values as reflected in source documentation. Regions will receive credit in the management of the Superfund program for "start" of a remedial action even though "initiation of physical on-site construction" may not have occurred for purposes of calculating a cost recovery statute of limitations. The date found in the remedial action actual start column of a CERCLIS/ WasteLAN report is a programmatic measure only, and cannot be relied upon

to create any rights, substantive or procedural, enforceable by any party in litigation with the United States. EPA reserves the right to change such data at any time without public notice.

- Most Accurate - Data reported in official decision source document

5.3 Timeliness: This data should be entered in real time if possible. All data MUST be entered by the end of the fiscal year quarter in which it occurs. The data sponsor analyses the data at the national level to verify data entry on a regular (weekly-to-monthly).

5.4 Consistency: The data must be consistent throughout the user group, based on standards provided by Headquarters staff in the enforcement office.

- Most Consistent - National Guidance and definitions have been distributed

Section 6 - Information Collection and Reporting

6.1 Source for the information: Enforcement Instrument/Document including Consent Decree, Administrative Order on Consent, Consent Agreement, Unilateral Administrative Order, Litigation/Referral (including generic litigation as well as litigation under specific law sections/codes), voluntary cost recovery action.

6.2 User interface: User enters the actions and actual completion/start dates on the Enforcement project schedule. In addition, user enters PRP information, including party name, type, and site involvement on the Enforcement Instrument and Party Information screens.

6.3 System transfers: This information is snapshot from regions to Headquarters.

6.4 Internal outputs: ENFR-66 report

6.5 Audit reports:

6.6 External outputs: this goal will be reported annually to Congress for FY04 end-of-year.

6.7 Guidance documentation:

▸ Superfund Program Implementation Manual (SPIM) – OSWER Directive 9200.3-14-1G-Q